UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *11 December 2009*.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-13* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-13* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the amendment and remarks filed on 12/11/2009.

2. **Claims 1-13** are pending in this application.

3. **Claims 1-12** have been amended.

4. **Claim 13** has been added.

Claim Objections

5. **Claim 5** is objected to because of the following informalities: the claim recites "cache" in quotations. It is unclear to the examiner Applicant's intentions with the quotation of the term cache. Examiner believes this is a typographical error. Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. **Claims 11-13** are rejected under 35 USC 101 since the claims are directed to non-statutory subject matter.

7. **Claim 11** recites a "computer readable medium" which appear to cover both transitory and non-transitory embodiments. The United States Patent and Trademark Office (USPTO) is <u>required</u> to give claims their broadest reasonable interpretation

consistent with the specification during proceedings before the USPTO. *See In re Zletz*, 893 F.2d 319 (Fed. Cir. 1989) (during patent examination the pending claims must be interpreted as broadly as their terms reasonably allow). The broadest reasonable interpretation of a claim drawn to a computer readable medium (also called machine readable medium and other such variations) typically covers forms of non-transitory tangible media **and** transitory propagating signals *per se* in view of the ordinary and customary meaning of computer readable media, <u>particularly when the specification is silent</u>. *See* MPEP 2111.01. When the broadest reasonable interpretation of a claim covers a signal *per se*, the claim **must** be rejected under 35 U.S.C. § 101 as covering non-statutory subject matter. *See In re Nuijten*, 500 F.3d 1346, 1356-57 (Fed. Cir. 2007) (transitory embodiments are not directed to statutory subject matter) and *Interim Examination Instructions for Evaluating Subject Matter Eligibility Under 35 U.S.C. § 101*, Aug. 24, 2009; p. 2.

The Examiner suggests that the Applicant add the limitation "non-transitory" to the "computer readable medium" as recited in the claim(s) in order to properly render the claim(s) in statutory form in view of their broadest reasonable interpretation in light of the originally filed specification. The Examiner also suggests that the specification may be amended to include the term "non-transitory computer readable medium" to avoid a potential objection to the specification for a lack of antecedent basis of the claimed terminology.

8.   Claims 12-13 recite generating and transmitting a "signal comprising computer

code." A signal does not fall within the four statutory classes of invention and is

therefore unpatentable.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9.   Claims 1-3 and 5-13 rejected under 35 U.S.C. 103(a) as being unpatentable

over Salmi et al (US 2001/0040900) in view of Skinner et al (US 6,085,198), hereinafter

Salmi and Skinner.

10.   Regarding Claims 1 and 11-13, Salmi disclosed:

a.   a method <u>for</u> editing multimedia webpages on a terminal, wherein a

server supplies one or more terminals with at least a part of said multimedia webpages

in the form of object arrangement instructions for objects in a multimedia page to be

generated <u>comprising</u> *(abstract)*;

b.   <u>transmitting, from the</u> server, data relating to at least one object to

be arranged in a multimedia page to be generated, with an instruction to store said data,

identified by a link, in a terminal memory *(Paragraph 23 states that the mobile terminal*

has memory that stores information regarding setting up and presenting multimedia

messages. Paragraph 26 states that when a message is received from the multimedia

message service center, the message can contain components of text, images,

photographs, audio clips, or video clips. Paragraph 28 states that the mobile terminal

then can compile the message and multimedia components by editing them and placing

them in desired locations);

        c. <u>subsequently transmitting, from the</u> server, a descriptive file

containing said link, to edit, on the terminal, said object in at least one multimedia page

being generated *(Paragraph 44-45 state that once the message is compiled and laid*

out, a SMIL file is created (the descriptive file) that outlines where multimedia

components are to be placed in the webpage. A header is added that contains the

address of the receiver and a reference to the location of the compilation file is added

also. The multimedia page is then provided with links or references to the next page,

previous page, beginning, or the end).

Salmi did not explicitly disclose:

        d. by reading the data stored in the terminal memory.

However, Skinner disclosed:

        e. by reading the data stored in the terminal memory *(Column 9, Lines*

29-46 state that the client checks its cache first to see if the data objects are already

resident at the client before attempting to query the server).

        f. The utilization of the readily available reading data stored in the

terminal memory of Skinner would have been obvious to one of ordinary skill in the art

in view of the teachings of Salmi since all the claimed elements were known in the prior

art and one skilled in the art could have combined the elements as claimed by known

methods with no change in their respective functions. *KSR Int'l Co. v. Teleflex, Inc.*, 550

U.S. 398 (2007). The combination would have yielded nothing more than predictable

results to one of ordinary skill in the art at the time of the invention, for example, to

conserve server processing power by reducing redundant requests.

11.   Regarding Claim 2, the limitations of Claim 1 have been addressed. Salmi

disclosed:

> a.   <u>wherein</u> the server transmits said data and the store instruction to
>
> the terminal in at least one data packet *(Paragraph 23 states that the mobile terminal*
>
> *has memory that stores information regarding setting up and presenting multimedia*
>
> *messages. Paragraph 26 states that when a message is received from the multimedia*
>
> *message service center, the message can contain components of text, images,*
>
> *photographs, audio clips, or video clips. Paragraph 28 states that the mobile terminal*
>
> *then can compile the message and multimedia components by editing them and placing*
>
> *them in desired locations).*

12.   Regarding Claim 3, the limitations of Claim 1 have been addressed. Salmi

disclosed:

> a.   <u>wherein</u> the storage in the terminal memory is temporary
>
> *(Paragraph 23 states that the processor of the client includes a temporary buffer*
>
> *memory).*

13.   Regarding Claim 5, the limitations of Claim 1 have been addressed. Salmi

disclosed:

       a.   <u>wherein</u> said instruction is <u>a</u> "cache" type <u>instruction</u> between the server and the terminal, with a memory area of the terminal allocated to store the data associated with said instruction *(Paragraph 52 states that once the message is received at the terminal, it is dismantled in a receiving block and stored in a message buffer formed in the memory)*.

Salmi did not explicitly disclose:

       b.   in order to speed up a subsequent, repeated execution of <u>transmitting said descriptive file</u> for the same object.

However, Skinner disclosed:

       c.   in order to speed up a subsequent, repeated execution of <u>transmitting said descriptive file</u> for the same object *(Column 9, Lines 29-46 state that the client checks its cache first to see if the data objects are already resident at the client before attempting to query the server)*.

       d.   The utilization of the readily available reading speed up subsequent, repeated executions of Skinner would have been obvious to one of ordinary skill in the art in view of the teachings of Salmi since all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions. *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398 (2007). The combination would have yielded nothing more than predictable results to one of ordinary skill in the art at the time of the invention, for example, to conserve server processing power by reducing redundant requests.

14.   Regarding Claim 6, the limitations of Claim 1 have been addressed. Salmi disclosed:

a.   <u>wherein</u> the store instruction includes information relating to a number of data items that the terminal must store in memory *(Paragraph 29, Figure 5a show that the message contains information regarding the message type and size and attaches each message afterwards. This lets the terminal know that every message sent in the transmission must be cached).*

15.   Regarding Claim 7, the limitations of Claim 1 have been addressed. Salmi disclosed:

a*.*   <u>wherein</u> said descriptive file contains a script including one or more links in the form of URL requests *(Paragraph 26 states that videos can be used in the messages. As such, there must be a script that is run that will grab the video according to the URL provided).*

16.   Regarding Claim 8, the limitations of Claim 1 have been addressed. Salmi disclosed:

a.   <u>wherein</u> said store instruction is implemented in the form of a command corresponding to a low level function *(Paragraphs 29-42 state that the SMIL format is created that lists where the client wants each object of the multimedia page to be placed).*

17.   Regarding Claim 9, the limitations of Claim 1 have been addressed. Salmi disclosed:

      a.   <u>wherein</u> the terminal is a mobile terminal arranged to cooperate with a cellular network *(Paragraph 22, Figure 2 show that WAP is used which is an international standard for mobile phones).*

18. **Regarding Claim 10,** the limitations of Claim 1 have been addressed. Salmi disclosed:

      a.   <u>wherein</u> said object is a graphic type object comprising at least one of the following elements: an image, a sequence of images, a sequence of 2D synthetic images, <u>and</u> a sequence of 3D synthetic images *(Paragraph 26 states that when a message is received from the multimedia message service center, the message can contain components of text, images, photographs, audio clips, or video clips).*

19. **Claims 4** are rejected under 35 U.S.C. 103(a) as being unpatentable over Salmi in view of Skinner and Peng (US 2002/0152229), hereinafter Peng.

20. **Regarding Claim 4,** the limitations of Claim 3 have been addressed. Salmi did not explicitly disclose:

      a.   <u>wherein</u> said instruction includes a timer parameter of predetermined value defining an expiry date, counted from its receipt on the terminal.

    However, Peng disclosed:

      b.   <u>wherein</u> said instruction includes a timer parameter of predetermined value defining an expiry date, counted from its receipt on the terminal

(Paragraph 61 states that checking to see whether the application is out of date is determined by seeing if a field in the data table is expired).

         c.   The utilization of the readily available including a timer parameter for defining an expiry date of Peng would have been obvious to one of ordinary skill in the art in view of the teachings of Salmi since all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions. *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398 (2007). The combination would have yielded nothing more than predictable results to one of ordinary skill in the art at the time of the invention, for example, to ensure that files are up to date.

Response to Arguments

21.   Applicant's arguments with respect to **Claims 1-12** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to STEVEN C. NGUYEN whose telephone number is

(571)270-5663. The examiner can normally be reached on Monday through Thursday

with alternating Friday 7:30AM - 5:00PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tonia Dollinger can be reached on (571) 272-4170. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

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system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S.C.N./
Examiner, Art Unit 2443
03/12/2010

/Tonia LM Dollinger/
Supervisory Patent Examiner, Art Unit 2443